

**Board for Professional Engineers and Land Surveyors  
Board Meeting Minutes  
May 11, 2006**

**2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, California, 95833  
(916) 263-2222**

**Thursday, May 11, 2006, beginning at 10:00 a.m.**

**Thursday, May 11, 2006**

**Board Members Present:** Cindy Tuttle (President), Dale Wilson (Vice President), Gregg Brandow, Arthur Duffy, James Foley, Robert Jones, Richard Lyons, and Edward Yu

**Board Members Absent:** Millicent Safran

**Board Staff Present:** Cindi Christenson (Executive Officer), Cindy Fernandez (Executive Analyst), Gary Duke (Legal Counsel), Linda Schneider (Liaison Deputy Attorney General), Nancy Eissler (Enforcement Program Manager), Joanne Arnold (Assistant Executive Officer), and Debbie Thompson (Budget Analyst)

**Public Present:** See Attached

**1. Roll Call to Establish a Quorum**

The meeting was called to order by President Tuttle at 10:05 a.m. Roll call was taken, and there was a quorum.

President Tuttle introduced Secretary Rosario Marin of the State and Consumer Services Agency. Secretary Marin introduced Under Secretary Will Bush.

Secretary Marin thanked the Board members for their dedication and for everything they do. She also wanted the Board to know that she is there to support them and that it is her goal to visit all the boards related to her agency. Secretary Marin stated that the Governor is "Huge" on Public Service and on his behalf, she says "Thank you." She also indicated that she is aware of the Board's quorum issues and that the Governor's Office is working on appointments.

**2. Public Comment**

Mr. Bockmiller, representing PEEG, stated that he had concerns regarding the State Specific PLS examination begin graded later than the National PLS examination and asked the Board to find a way to get the results of the National PLS examination sooner so that candidates can prepare for the October examination if necessary.

Ms. Christenson explained that the computer system is not currently able to generate the results of multi-part examinations separately; however, she has directed staff to look into this situation.

**3. Approval of Delinquent Reinstatements (Possible Action)**

**MOTION:** Mr. Foley/Mr. Lyons moved to approve the Amended Handout Delinquent Reinstatements as follows:

**ELECTRICAL**

**1. Henry Dotson III**

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**MECHANICAL**

**1. Roger Alan Benjamin**

Reinstate applicant's mechanical license, having met all requirements for reinstatement, including passing the Board's Laws and Regulations Examination.

**2. Richard Mark Brown**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**3. John F. Dayton, III**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**4. Bernard John Owens**

Reinstate applicant's mechanical license once he has taken and passed the Board's Laws and Regulations Examination.

**5. Robert Clark Treseder**

Reinstate applicant's mechanical license once he has taken and passed the Board's Laws and Regulations Examination.

**VOTE:** 8-0, motion carried.

**4. Comity and Temporary Authorization Applications (Possible Action)**

**MOTION:** Vice President Wilson/Mr. Yu moved to approve the Amended Handout Comity List.

**VOTE:** 8-0, motion carried.

**5. Strategic Plan (Possible Action)**

Ms. Christenson reported that the staff has gone through the existing Strategic Plan and have updated and modified the existing Strategic Plan.

Ms. Christenson went over the changes that were in the agenda.

**MOTION:** Dr. Brandow/Mr. Duffy moved to approve the changes to the existing Strategic Plan.

**VOTE:** 8-0, motion carried.

**6. Special Civil Test Plan (Possible Action)**

Ms. Christenson reported that the Special Civil Test Plan that we thought was wrong, was actually right and that the Department of Consumer Affairs did an independent review to make sure that the original Special Civil Test Plan was correct, and they determined that it was.

**MOTION:** Mr. Duffy/Mr. Foley moved to approve the revised Special Civil Test Plan for Engineering Surveying.

**VOTE:** 8-0, motion carried.

**7. Retention Policy for Board Internet Publications (Possible Action)**

Mr. Duke provided the Board with a Handout with issues and recommendations related to Records Retention Policy for Board Internet Publications. Mr. Duke stated that by law, the Board is required to have a Record Retention Schedule Policy.

Mr Duke made the following recommendations:

- The Board should consider addressing electronic records retention time periods for publications maintained on Board's website in the next revision of the Board's Records Retention Schedule.
- The Board should direct staff to develop a separate retention policy for documents published electronically, in the event that the Records Retention

Schedule is not the appropriate vehicle for addressing retention periods for the Board's website publications.

- Staff should make an inventory of all publications posted on the website and compare the publications posted with the records identified in its existing Records Retention Schedule. Staff should be directed to identify any issues, inconsistencies or discrepancies that may exist between specifying and maintaining "hard copy" records retention periods and maintaining the same records in electronic form on the Board's website.
- Publication retention time periods of information related to enforcement actions should be tailored according to the appropriate media.

President Tuttle and Mr. Duffy believe that there should be a set policy for Record Retention Schedules and that the Board should set their policy and let other Boards set theirs.

**MOTION:** Mr. Duffy/Mr. Foley moved to approve the above recommendations, and to include research to see if State Standards exist.

**VOTE:** 8-0, motion carried.

## **8. Administrative**

### **a. Fund Condition (Possible Action)**

Ms. Thompson reported on changes included in the Board's fund condition dated April 26, 2006:

- The renewal revenue projection decreased from 5,705,000 to \$5,172,850.
- Application revenue projection decreased from \$3,692,435 to \$3,452,927.
- Actual reimbursements this FY increased from \$39,676 to \$45,380.

Total revenue through March 31, 2006 was \$8,224,292, which is \$1,848,892 more than the total received in the prior FY through March 31, 2005. Ms. Thompson explained that the increase is caused by the switch from quadrennial renewals to biennial renewals that became effective July 1, 2003. This FY, both the remaining quadrennial licenses and the first group of biennial licenses are renewing.

### **b. Fiscal Year 2005/06 Budget (Possible Action)**

Ms. Thompson reported that the Board currently projects this Fiscal Year expenses to be \$7,577,652 with a savings of \$196,752 after expenditures this Fiscal Year.

**c. Fiscal Year 2006-07 Budget Change Proposals (BCPs)  
(Possible Action)**

The Board's BCPs were approved on consent at the recent April/May 2006 legislative budget hearings.

**d. Fiscal Year 2007/08 Budget (Possible Action)**

Ms. Thompson reported on the Board's FY 2007/08 BCPs:

**1) Subject Matter Expert (SME) -** Ms. Thompson reported that the Board's FY 2006-07 and ongoing budget will not now accommodate the full SME hourly rate increase from \$22.21 to \$32.00. A recent analysis recent and projected future exam administration costs shows that more funds will be required for added expense of grading due to national exam population increases.

**MOTION:** Vice President Wilson/Mr. Yu moved that the Board increase the SME hourly rate effective July 1, 2006 from \$22.21 to \$28.00 and submit a FY 2007-08 BCP to increase the rate further to \$32 effective for July 1, 2007.

**VOTE:** 8-0, motion carried.

**2) Reporting of Legal Actions -** Board staff will submit a BCP to meet the requirements of legislation enacted in 2004 (SB 1549).

**e. Land Surveyor Contract Renewal**

Ms. Thompson reported that the Board's Land Surveyor contract will expire December 31, 2006. Because the Request for Qualifications has been delayed by DCA review, the Board cannot schedule the new contract to begin before the existing Land Surveyor expires. Board staff had planned to overlap the new LS contract with the existing contract to provide time for orientation. The RFQ is now scheduled to be mailed out by mid-June, 2006.

**f. Publications Review**

Ms. Eissler reported that the Handbook of Laws and Rules is still under review at DCA and the scheduled release date will be delayed until June 2006.

The Enforcement bulletin is still scheduled for release in late July or early August 2006.

**9. Enforcement**

Ms. Eissler reviewed the enforcement statistics included in the agenda. She advised that the Enforcement Unit is working very hard to resolve the older

cases. She also explained that the Board is receiving more new complaints than it has in the past.

Ms. Christenson and Ms. Eissler advised the Board that 31 of the cases opened in April involved examination subversion matters. They explained that NCEES now runs a “collusion analysis” program on the candidates’ answers; the analysis indicates pairs of candidates that have a high probability of collusion in answering the examination problems. NCEES then provides these reports to the State Boards for further investigations. Ms. Christenson explained that we reviewed the reports and determined that the pairs of candidates were seated next to each other; we then reviewed their examination books and the amount of work the candidates did to solve the examination problems. Ms. Christenson advised that with some pairs it was very clear that one candidate had done considerable work while the other had done virtually nothing; in other cases, it was not possible to tell. Ms. Christenson explained that if the evidence clearly indicated that one or both candidates had cheated, then their examinations were voided, just as we do with cheaters who are removed from the examinations. Ms. Eissler explained that two of the candidates confessed to have cheated, one of whom had been caught cheating on a previous examination. She also advised that three others had been caught cheating on previous examinations as well. She explained that many of the cases were closed as either “no violation” or “insufficient evidence,” and those candidates’ results were allowed to stand. In other cases, the results were voided, and the candidates were allowed to re-apply for a future examination, including the April examinations. Ms. Eissler advised that there were a few much more egregious cases; in those cases, the application was denied; however, since the candidates still had the right to appeal the denial, she could not discuss those cases further at this time.

Mr. Foley asked if this new method of catching cheaters was going to be publicized. Ms. Eissler advised that an article would be prepared and posted on the Board’s website and published in the Bulletin.

## **10. Legislative**

### **a. Discussion of Legislation for 2006, including but not limited to AB 180, AB 1561, AB 1588, and SB 246 (Possible Action)**

Ms. Arnold provided the Board with updated handouts and informed the Board that the Sunset date has been extended for 3 more years.

Mr. Duffy reported on the information contained in the agenda and the Board’s position on each item.

### **b. Regulation Status Report**

Ms. Christenson advised that Board Rules 404, 424, and 460 (Five-Year Credit for ABET Masters Degree) require statutory changes before amendments to the regulations can be made; the statutory amendments will be in SB 246.

**11. Technical Advisory Committee Reports  
(No Committee Meetings were held.)**

**a. Board Assignments to TACs (Possible Action)**

There were no Board assignments.

**b. Appointment of TAC Members (Possible Action)**

Ms. Christenson reported that old applications were given to the Board members for review. Since the applications were so old, letters were sent out to the applicants to see if they were still interested in being appointed to a TAC and if so, to send in an updated application.

**12. Liaison Reports (Possible Action)**

**a. ABET**

No report given.

**b. NCEES**

**1. Proposed Amendments to the NCEES Constitution and Bylaws  
(Possible Action)**

Ms. Christenson reported that NCEES is proposing to remove the word "land" from the phrase "land surveying" in the Model Law and other NCEES documents.

Ms. Christenson stated that she called NCEES to find out why this was being proposed, and they said the reason is to reflect the more global way that surveying is being conducted; i.e. GPS, etc.

**MOTION:** Mr. Duffy/Vice President Wilson moved to oppose taking the word "Land" out of Land Surveying at the Western Zone meeting.

**VOTE:** 8-0, motion carried.

**c. Technical and Professional Societies**

Mr. DeWitt, of CELSOC, thanked Ms. Christenson for attending the Monterey Bay Chapters meeting and said that he heard many positive comments on her visit.

**13. President's Report**

President Tuttle appointed a Nominating Committee of Ms. Safran and Mr. Foley to nominate candidates for next term Board President and Vice President.

President Tuttle, Board members, and Staff wished Mr. Yu a very happy birthday.

**14. Executive Officer's Report**

**1. Administration Report**

- a. **Executive summary report**  
No additional report given.

**2. Personnel**

- a. **New Hires**  
No New Hires.

- b. **Vacancies**  
Ms. Christenson reported that our Staff Civil Engineering Registrar Eileen Crawford has left and is now working in El Dorado County.

Ms. Christenson also reported that Dawn Rominger, Examinations Analyst, will be leaving June 1, 2006.

**3. Enforcement/Examination/Licensing**

- a. **College Outreach**  
No report given.

- b. **Report on Enforcement Activities**  
No report given.

- c. **Report on Examination Activities**  
Ms. Christenson reported that there are approximately 68 exam subversion cases from the April 2006 examination administration. Of these 68 cases, most of them are related to the NCEES calculator policy, which required us to eject candidates from the examination if they were found to be using an unapproved calculator after the examination began.

Ms. Christenson reported that at the Pomona site, a mob of candidates formed outside of the test area after they had been removed from the examination because they had unapproved calculators. Board staff had to be escorted by the CHP back to their hotels for security reasons.

Ms. Christenson has informed NCEES of this issue and told them that she will not put staff at risk.

President Tuttle requested that the calculator issues be included in the next agenda.

**4. Publications/Website**

- a. **Website Activity Statistics**  
President Tuttle directed staff to review the feasibility of putting the long agendas for the Board meetings on website.



Ms. Christenson advised that it would not include Closed Session.

**5. Other**

**a. DCA update**

Ms. Christenson reported that the office is in the process of being remodeled and making it ADA compliant.

**15. Approval of Board Travel (Possible Action)**

No Board travel.

**16. Other Items Not Requiring Board Action**

**Date of Next Board Meeting: Date and Place to be determined**

The next Board meeting will be held June 22 and 23, 2006, at the Sacramento Board Office.

Ms. Eissler reported that there will be two Petition Hearings at the June 2006 meeting.

**17. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]**

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492
- b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)
- c. Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS 100633

**18. Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically; Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS 100633

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson reported that the Appeal Results for the October 2005 Geotechnical Engineering Examination were approved.

Ms. Christenson reported that the Board adopted the Proposed Decisions regarding William Timothy Gallegos and Michael David Platt; adopted the Default Decision regarding Michael Aaron Albert; and adopted the Stipulations regarding Levi Rodriguez, Robert Edward Brady, and Mark Eric Rayback.

**19. Approval of Consent Items (Possible Action)**

**(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)**

- a. **Approval of the Minutes of the March 16 & 17, 2006, Board Meeting**
- b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

**MOTION:** Mr. Foley/Mr. Duffy moved to approve the consent calendar.

**VOTE:** 8-0, motion carried.

**20. Adjourn**

The Board adjourned at 1:00 p.m.

**PUBLIC PRESENT**

Lyn T. Bockmiller, PECG  
Bob DeWitt, CELSOC  
Tom Stout, CSPE/CLCPE  
Patrick Tami, CLSA  
Steve Hao, CalTrans